

Rep. DelBene Discussion Draft plus GDPR Comparison

Requirements for sensitive personal information or behavioral data. Requires the FTC to put forward regulations no more than 90 days after enactment that require platforms to put in place opt-in requirements along with plain English privacy policy requirements. Also requires companies to obtain privacy audits by a neutral third party and submit the results to the FTC every two years. Exempts (1) technically necessary and security-related data processing, and (2) data processing that is consistent with the expectations of the reasonable user.

Application & Enforcement by the FTC. Places authority to advance and enforce bill's requirements with the FTC, pursuant to Section 5 of the FTC Act (unfair or deceptive acts or practices).

Rule of Construction. Exempts data processing that is related to national security authorities under FISA.

Effective Date. Legislation takes effect 180 days after enactment.

Comparison to GDPR

What data is covered?

GDPR: Both personal data and sensitive personal data are covered by GDPR. Personal data, a complex category of information, broadly means a piece of information that can be used to identify a person. This can be a name, address, IP address... you name it. Sensitive personal data encompasses genetic data, information about religious and political views, sexual orientation, and more.

DelBene Bill: Covers "sensitive personal information," which is defined through enumerated types of information, along with a catchall for the FTC to add other items. Does not use a distinction between personal and sensitive personal data.

	DelBene Bill	GDPR
Right to access your personal data	Yes	Yes
Right to correct errors in your personal data	No	Yes
Right to erase your personal data	No	Yes
Right to withdraw consent	Yes	Yes
Right to export your personal data	Yes	Yes
Applies to both startups and large corporations	Yes	Yes
Imposes fines for noncompliance	Authorizes fines generally through FTC enforcement authority	Yes

Requires opt-in consent, not default consent	Yes	Yes
Requires clear and plain language disclosure about how data will be used	Yes	Yes
Requires appointment of Data Protection Officer to comply with privacy regulations	No	Yes
Sets forth data breach notification requirements	No	Yes